

such list. The chances of the Service finding one or more individuals on such list available to serve as the BoI will be increased if the list contains a sufficiently large number of names and if it is submitted at as early a date as possible. Nevertheless, the parties can even preselect and submit jointly to the Service one specific individual if that individual agrees to be available for the particular BoI time period. Again the Service will not be bound to appoint that individual, but will be receptive to such a submission by the parties.

(c) The jointly submitted list may be worked out and agreed to by (1) A particular set of parties in contemplation of a particular upcoming negotiation dispute between them, or (2) a particular set of parties for use in all future disputes between that set of parties, or (3) a group of various health care institutions and unions in a certain community or geographic area for use in all disputes between any two or more of those parties.

(d) Submission or receipt of any such list will not in any way constitute an admission of the appropriateness of appointment of a BoI nor an expression of the desirability of a BoI by any party or by the Service.

(e) This joint submission procedure is a purely optional one to provide the parties with an opportunity to have input into the selection of a BoI if they so desire.

(f) Such jointly submitted lists should be sent jointly by the employer(s) and the union(s) to the appropriate regional office of the Service. The regional offices of the Service are as follows:

*1. Eastern Region:*

Address: Jacob K. Javits Federal Building, 26 Federal Plaza, Room 2937, New York, NY 10278.

Consists of: Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, Puerto Rico, the Virgin Islands, Pennsylvania, Delaware, New Jersey, Garrett and Alleghany Counties of Maryland; and Brooke and Hancock Counties of West Virginia.

*2. Central Region:*

Address: Insurance Exchange Building, Room 1641, 175 W. Jackson Street, Chicago, IL 60604.

Consist of: Illinois (except counties listed under the Southern Region); Indiana (except

counties listed under Southern Region); Wisconsin, Minnesota, North Dakota, South Dakota, Michigan, and Ohio (except counties listed under the Southern Region).

*3. Southern Region:*

Address: Suite 400, 1422 W. Peachtree St., NW., Atlanta, GA 30309.

Consists of: Virginia, Maryland (except counties listed under the Eastern Region); Tennessee; North Carolina; South Carolina; Georgia; Alabama; Florida; Mississippi; Louisiana; Arkansas; Kentucky; Texas (except for Hudspeth and El Paso counties); Oklahoma; Missouri (except for those counties listed for the Western Region); Illinois (in counties of Calhoun, Greene, Jersey, McCoupin, Montgomery, Fayette, Bond, Madison, St. Clair, Monroe, Clinton, Washington, Marion, White, Hamilton, Wayne, Edwards, Wabash, Lawrence, Richland, Clay, Effingham, Jasper, and Crawford); Indiana (the counties of Knox, Daviess, Martin, Orange, Washington, Clark, Floyd, Harrison, Crawford, Perry, Spencer, DuBois, Pike, Gibson, Posey, Vanderburgh, and Warrick); Ohio (the counties of Butler, Hamilton, Warren, Clermont, Brown, Highland, Clinton, Ross, Pike, Adams, Scioto, Lawrence, Ballia, Jackson, Vinton, Hocking, Athens, and Meigs); Kansas (the counties of Bourbon, Crawford, Cherokee, and Ottawa); West Virginia (except counties listed under the Central Region); and the Canal Zone.

*4. Western Region:*

Address: Francisco Bay Building, Suite 235, 50 Francisco Street, San Francisco, CA 94133.

Consists of: California; Nevada; Arizona; New Mexico; El Paso and Hudspeth Counties (only) in Texas; Hawaii; Guam; Alaska; Washington; Oregon; Colorado; Utah; Wyoming; Montana; Idaho; Nebraska; Kansas; Iowa; Missouri (the counties of Atchinson, Nodaway, Worth, Harrison, Mercer, Putnam, Schuyler, Scotland, Knox, Adair, Sullivan, Grundy, Daviess, Gentry, DeKalb, Andrew, Holt, Buchanan, Clinton, Caldwell, Livingston, Linn, Macon, Shelby, Randolph, Chariton, Carroll, Ray, Clay, Platte, Jackson, Lafayette, Saline, Howard, Boon, Cooper, Pettis, Johnson, Cass, Bates, Henry, St. Clair, Benton, and Morgan); American Samoa; and Wake Island.

[44 FR 42683, July 20, 1979, as amended at 47 FR 10530, Mar. 11, 1982]

**§§ 1420.6–1420.7 [Reserved]**

**§ 1420.8 FMCS deferral to parties' own private factfinding procedures.**

(a) The Service will defer to the parties' own privately agreed to factfinding procedure and decline to appoint a Board of Inquiry (BoI) as long as the parties' own procedure meets certain conditions so as to satisfy the

Service's responsibilities under the Act. The Service will decline to appoint a BoI and leave the selection and appointment of a factfinder to the parties to a dispute if both the parties have agreed in writing to their own factfinding procedure which meets the following conditions:

(1) The factfinding procedure must be invoked automatically at a specified time (for example, at contract expiration if no agreement is reached).

(2) It must provide a fixed and determinate method for selecting the impartial factfinder(s).

(3) It must provide that there can be no strike or lockout and no changes in conditions of employment (except by mutual agreement) prior to or during the factfinding procedure and for a period of at least seven days after the factfinding is completed.

(4) It must provide that the factfinder(s) will make a written report to the parties, containing the findings of fact and the recommendations of the factfinder(s) for settling the dispute, a copy of which is sent to the Service. The parties to a dispute who have agreed to such a factfinding procedure should jointly submit a copy of such agreed upon procedure to the appropriate regional office of the Service at as early a date as possible, but in any event prior to the appointment of a BoI by the Service. See § 1420.5(f) for the addresses of the regional offices.

(b) Since the Service does not appoint the factfinder under paragraph (a) of this section, the Service cannot pay for such factfinder. In this respect, such deferral by the Service to the parties' own factfinding procedure is different from the use of stipulation agreements between the parties which give to the Service the authority to select and appoint a factfinder at a later date than the date by which a BoI would have to be appointed under the Act. Under such stipulation agreements by which the parties give the Service authority to appoint a factfinder at a later date, the Service can pay for the factfinder. However, in the deferral to the parties' own factfinding procedure, the parties choose their own factfinder and they pay for the factfinder.

#### **§ 1420.9 FMCS deferral to parties' own private interest arbitration procedures.**

(a) The Service will defer to the parties' own privately agreed to interest arbitration procedure and decline to appoint a Board of Inquiry (BoI) as long as the parties' own procedure meets certain conditions so as to satisfy the Service's responsibilities under the Act. The Service will decline to appoint BoI if the parties to a dispute have agreed in writing to their own interest arbitration procedure which meets the following conditions:

(1) The interest arbitration procedure must provide that there can be no strike or lockout and no changes in conditions of employment (except by mutual agreement) during the contract negotiation covered by the interest arbitration procedure and the period of any subsequent interest arbitration proceedings.

(2) It must provide that the award of the arbitrator(s) under the interest arbitration procedure is final and binding on both parties.

(3) It must provide a fixed and determinate method for selecting the impartial interest arbitrator(s).

(4) The interest arbitration procedure must provide for a written award by the interest arbitrator(s).

(b) The parties to a dispute who have agreed to such an interest arbitration procedure should jointly submit a copy of their agreed upon procedure to the appropriate regional office of the Service at as early a date as possible, but in any event prior to the appointment of BoI by the Service. See § 1420.5(f) for the addresses of regional offices.

These new regulations are a part of the Service's overall approach to implementing the health care amendments of 1974 in a manner consistent with the Congressional intent of promoting peaceful settlements of labor disputes at our vital health care facilities. The Service will work with the parties in every way possible to be flexible and to tailor its approach so as to accommodate the needs of the parties in the interest of settling the dispute. This was the motivating principle behind these new regulations which permit input by the parties to the Board of Inquiry selection and allow the parties to set up